

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	PACA Docket No. D-02-0021
)	
Kleiman & Hochberg, Inc.,)	
)	
Respondent)	
)	
	and	
)	
Michael H. Hirsch,)	PACA Docket No. APP-03-0005
)	
Petitioner)	
)	
	and	
)	
Barry J. Hirsch,)	PACA Docket No. APP-03-0006
)	Order Lifting Stay as to
Petitioner)	Kleiman & Hochberg, Inc.

On April 5, 2006, I issued a Decision and Order: (1) concluding Kleiman & Hochberg, Inc., violated the Perishable Agricultural Commodities Act, 1930, as amended (7 U.S.C. §§ 499a-499s) [hereinafter the PACA]; and (2) revoking Kleiman & Hochberg,

Inc.'s PACA license.¹ On April 24, 2006, Kleiman & Hochberg, Inc., filed a petition to reconsider *In re Kleiman & Hochberg, Inc.*, 65 Agric. Dec. 482 (2006), which I denied.²

Kleiman & Hochberg, Inc., filed a petition for review of *In re Kleiman & Hochberg, Inc.*, 65 Agric. Dec. 482 (2006), and *In re Kleiman & Hochberg, Inc.* (Order Denying Pet. to Reconsider), 65 Agric. Dec. 720 (2006), with the United States Court of Appeals for the District of Columbia Circuit. On August 2, 2006, Kleiman & Hochberg, Inc., filed a motion for a stay of the orders in *In re Kleiman & Hochberg, Inc.*, 65 Agric. Dec. 482 (2006), and *In re Kleiman & Hochberg, Inc.* (Order Denying Pet. to Reconsider), 65 Agric. Dec. 720 (2006), pending the outcome of proceedings for judicial review. On September 22, 2006, I granted Kleiman & Hochberg, Inc.'s motion for a stay.³

On August 14, 2007, the United States Court of Appeal for the District of Columbia Circuit issued a decision denying Kleiman & Hochberg, Inc.'s petition for review.⁴ On December 6, 2007, Kleiman & Hochberg, Inc., requested that, effective close of business December 7, 2007, I lift the September 22, 2006, Stay Order as it relates

¹*In re Kleiman & Hochberg, Inc.*, 65 Agric. Dec. 482 (2006).

²*In re Kleiman & Hochberg, Inc.* (Order Denying Pet. to Reconsider), 65 Agric. Dec. 720 (2006).

³*In re Kleiman & Hochberg, Inc.* (Stay Order), ___ Agric. Dec. ___ (Sept. 22, 2006).

⁴*Kleiman & Hochberg, Inc. v. U.S. Dep't of Agric.*, 497 F.3d 681 (DC Cir. 2007).

to Kleiman & Hochberg, Inc. On December 6, 2007, the Hearing Clerk transmitted the record to the Judicial Officer for a ruling on Kleiman & Hochberg, Inc.'s request to lift the stay as to Kleiman & Hochberg, Inc.

Proceedings for judicial review as to Kleiman & Hochberg, Inc., are concluded. Therefore, as to Kleiman & Hochberg, Inc., the September 22, 2006, Stay Order is lifted; and the orders issued in *In re Kleiman & Hochberg, Inc.*, 65 Agric. Dec. 482 (2006), and *In re Kleiman & Hochberg, Inc.* (Order Denying Pet. to Reconsider), 65 Agric. Dec. 720 (2006), as they relate to Kleiman & Hochberg, Inc., are effective as follows.

ORDER

Kleiman & Hochberg, Inc., has committed willful, flagrant, and repeated violations of section 2(4) of the PACA (7 U.S.C. § 499b(4)). Kleiman & Hochberg, Inc.'s PACA license is revoked, effective at the close of Kleiman & Hochberg, Inc.'s business December 7, 2007.

Done at Washington, DC

December 7, 2007

William G. Jenson
Judicial Officer